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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,553	03/16/2004	Benoit Dageville	50277-2504	3720

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1089

EXAMINER	
VO, LILIAN	

ART UNIT	PAPER NUMBER
2195	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/802,553	DAGEVILLE ET AL.	
	Examiner	Art Unit	
	Lilian Vo	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/12/04, 8/17/05, 10/14/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 15 are pending.

Claim Objections

2. Claims **6 - 10** are objected to because their formats are improper. Claims 6 – 10 are claiming the computer readable medium but depending on the method claim. The Office is not sure whether they are independent claims, or the dependent claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 6 – 15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. **Claims 6 - 15** are not limited to tangible embodiments. Claims 6 – 15 recite "a computer-readable medium" and the specification discloses computer readable medium as including carrier waves (page 22 paragraph 74). Carrier waves are incapable of being touched or perceived absent the tangible medium through which they are conveyed; therefore, claims 6 – 15 are non-statutory.

Furthermore, **claims 6 - 10**, each which claim both either the product and the method steps or an apparatus and the method steps of using the apparatus should also be rejected under

35 U.S.C. 101, ***Ex parte Lyell***, 17 USPQ 2d 1548 (Bd. Pat. App. &Inter. 1990), based on the theory that each claim is directed to neither a "process" nor a "product" but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. ***Id.*** at **1551**.

Correction is required.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 11 – 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2 and 4 - 7 of U.S. Patent No. 6,826,753 in view of Mirchandaney et al. (US 6,505,227, hereinafter Mirchandaney) and Gautam et al. (US 5,956,704, hereinafter Gautam).

8. Although the conflicting claims are not identical, they are not patentably distinct from each other. The examiner can ascertain no difference between the claims of the present application and that of U.S. Patent 6,826,753. It is noted that the minor difference encompass replacement of the recitation of the limitations in the claims and it appears to be substantially the same or duplicate or in some instance obvious over one another. For example, claims 11 - 15 comprise functions with steps which performed the same as the steps of claims 1, 2 and 4 - 7 of U.S. Patent 6,826,753. Mirchandaney discloses a method for distributing work granules of a parent task among processes running on various nodes in multi-processing computer in which the parent task is divided into work granules of varying sizes based on the location of the data that must be accessed to perform the work granules (col. 3 lines 24 – 51, col. 4 lines 9 – 29, col. 5 line 61 – col. 6 line 10, col. 7 line 66 – col. 8 line 6, 54 – col. 9 line 3, 25 – 27 and 40 – 55 and col. 10 lines 12 - 26). Gautam discloses a method for parallelizing operations that change a database in which a coordinator process assigns granules of work to multiple processes (col. 8 lines 5 – 16, col. 9 lines 54 – 65, col. 10 lines 18 – 24, 59 – 65 and figs. 3A, 3B, 4, 5, 7 and 8). Therefore, It would have been obvious for an ordinary skill in the art at the time the invention was made to combine the teachings of Gautam and Mirchandaney together with Pat. 6,826,753 to provide the method and system as claimed.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1 – 3 and 6 – 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Jakobsson et al. (US 5,848,408, applicant's submitted IDS filed 7/12/04, hereinafter Jokobsson).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

11. Regarding **claim 1**, Jokobsson discloses a method for breaking a task into work granules to assign to processes, the method comprising the steps of:

determining how many processes will be used to execute said task (col. 10 lines 19 – 26);

determining how many granules to divide said task into based on how many processes will be used to execute said task (col. 10 lines 36 – 45), and a range defined by a first threshold and a second threshold (col. 10 lines 36 – 54);

wherein the first threshold is a minimum number of work granules to assign to each of the processes that will be used to execute said task (col. 10 lines 36 – 54, abstract: the subqueries are generated based on join predicates and constraint on dimension tables that are contained in the original query. Col. 3 lines 9 - 20);

wherein the second threshold is a maximum number of work granules to assign to each of the processes that will be used to execute said task (Col. 3 lines 9 – 20, col. 10 lines 36 –

54, abstract: the subqueries are generated based on join predicates and constraint on dimension tables that are contained in the original query); and

dividing said task into a number of work granules that allows each process that will be used to execute said task to be assigned a number of work granules that falls within said range (Col. 3 lines 9 – 20, col. 10 lines 36 – 54, abstract: the subqueries are generated based on join predicates and constraint on dimension tables that are contained in the original query).

12. Regarding **claim 2**, Jakobsson discloses the method of claim 1 wherein the step of determining how many granules to divide said task into includes the step of determining a work quantity to equally assign to work granules of said task and the step of dividing said task into a number of work granules includes dividing said task into work granules that substantially reflect said work quantity (col. 10 lines 36 – 45).

13. Regarding **claim 3**, Jakobsson discloses the method of claim 2, wherein the step of determining a work quantity includes determining a work quantity that represents an amount of data to access from a database table (col. 10 lines 36 – 54).

14. **Claims 6 – 8** are rejected on the same ground as stated in claims 1- 3 above.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16. Claims 4, 5, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobsson et al. (US 5,848,408) as applied to claim 1 above, and in view of Gautam et al. (US 5,956,704, applicant's submitted IDS filed 7/12/04, hereinafter Gautam).

17. Regarding **claim 4**, Jakobsson did not clearly disclose the additional limitation as claimed. Nevertheless, Gautam discloses the task entails scanning data that is stored as contiguous sets of data blocks, wherein the method further includes the step of adjusting work assigned to a work granule so that any contiguous set of data blocks scanned by said work granule during execution of the work granule is scanned completely during said execution of the work granule (col. 10 line 59 – col. 11 line 35). Therefore, it would have been obvious to one of an ordinary skill in the art, at the time the invention was made, to incorporate Gautam's teaching together with Jokobsson to perform the necessary functions as desired.

18. Regarding **claim 5**, as modified Jakobsson discloses the method of Claim 2, wherein each work granule is associated with one or more ranges of ranges of blocks to scan from a database table, said range corresponding to the work quantity assigned to said work granule (col. 10 line 59 – col. 11 line 45).

19. **Claims 9 – 10** are rejected on the same ground as stated in claims 4 – 5 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lilian Vo
Examiner
Art Unit 2195

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June 21, 2007

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